

Missouri Attorney General's Opinions - 1999

Opinion	Date	Topic	Summary
67-99	Oct 29	CITY COUNCIL - COUNCILMAN. CITY ELECTIONS. MUNICIPALITIES. SPECIAL ELECTION. THIRD CLASS CITIES. VACANCIES. VACANCY IN OFFICE.	A council member's office becomes vacant at the time of his death and therefore, pursuant to Section 77.450, RSMo, a special election shall be held to fill the vacancy where that vacancy occurs more than six months before the next municipal election.
79-99	Mar 17	APPRAISERS. COUNTY BOARD OF EQUALIZATION. DEPARTMENT OF REVENUE. DIVISION OF PROFESSIONAL REGISTRATION. REAL ESTATE. STATE TAX COMMISSION.	Beginning July 1, 1999, it will be unlawful for any person who is not licensed or certified by the Missouri Real Estate Appraisers Commission as provided in Sections 339.500 to 339.549, RSMo, to, for a fee, develop and communicate a real estate appraisal before the State Tax Commission or a local Board of Equalization unless such person is exempt from licensure and certification pursuant to Section 339.501.5, RSMo Supp. 1998; a salaried employee of a corporation that owns property will be permitted under the exemption in Section 339.501.5(1) to provide an opinion as to the value of the property owned by the corporation.
85-99	Jan 25	BALLOTS. COUNTY SALES TAX. ELECTIONS. SHERIFFS. TAXATION - GENERAL. TAXATION - COUNTY SALES TAX.	The provision in subsection 2 of Section 67.582, RSMo Supp. 1997, stating "in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section" does not prevent a county law enforcement sales tax question from being submitted to voters at the April 6, 1999 election even if a similar question was defeated at the April 7, 1998 election.
87-99	June 4	CITY-COUNTY LIBRARIES. LIBRARIES. LIBRARY TAXES. PROPERTY TAX.	With regard to a city-county library district created pursuant to Section 182.291, RSMo 1994, (1) the property tax rate for the district is set each year by the board of trustees of the district, and (2) the board may set the property tax rate in a given year at less than the maximum authorized rate.
90-99	Jan 25	BALLOTS. REFERENDUM.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.160, RSMo, relating to Senate Substitute for House Committee Substitute for House Bill No. 1891, 89 th General Assembly, Second Regular Session (1998).

91-99	Jan 25	BALLOTS. REFERENDUM.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, relating to Senate Substitute for House Committee Substitute for House Bill No. 1891, 89th General Assembly, Second Regular Session (1998).
97-99	June 4	COUNTIES. COUNTY SALES TAX. TAXATION - COUNTY SALES TAX.	With regard to the capital improvements sales tax authorized by Section 67.700, RSMo 1994, 1) a proposition to authorize the tax for the purpose of improvements to roads and bridges should be voted on separately from a proposition to authorize the tax for the purpose of repairs to the courthouse and construction of a new jail facility, and 2) both propositions may be submitted to the voters where the total capital improvements sales tax rate does not exceed one-half of one percent.
98-99	June 4	BAD CHECKS. CHECKS. INSUFFICIENT FUNDS CHECKS.	Notwithstanding subsection 6 of Section 570.120, RSMo 1994, under the facts considered, as provided in subsection 2 of Section 408.653, RSMo Supp. 1998, a merchant may collect on an insufficient funds check a maximum service charge of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of the insufficient funds check.
107-99	Apr 16	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo Supp. 1998, of the sufficiency as to form of an initiative petition relating to the amendment of Section 565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder.
109-99	May 11	CONFLICT OF INTEREST. EMERGENCIES. INCOMPATIBILITY OF OFFICES. TELEPHONE.	A member of an emergency services board to which Section 190.339, RSMo Supp. 1998, applies may not be employed by that board.
115-99	May 28	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo Supp. 1998, of the sufficiency as to form of an initiative petition relating to the amendment of Section 565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder.
117-99	June 18	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, for an initiative petition relating to the amendment of Section 565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder.
120-99	June 18	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp. 1998, regarding an initiative petition relating to the amendment of Section

			565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder.
122-99	July 2	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo Supp. 1998, of the sufficiency as to form of an initiative petition relating to a proposed law amending Chapter 226.
123-99	July 9	BALLOTS. REFERENDUM.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.160, RSMo, relating to the creation of a budget reserve fund.
124-99	July 9	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo.
127-99	July 19	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo.
128-99	July 22	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp., regarding an initiative petition relating to a proposed law amending Chapter 226.
133-99	july 30	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed law concerning campaign financing.
140-99	Aug 19	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo.
143-99	Aug 19	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp., regarding an initiative petition relating to a proposed law concerning campaign financing.
149-99	Sept 3	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed law concerning increases in the minimum wage.
150-99	Sept 9	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment to Article IV, § 36(a) of the Constitution of the State of Missouri.
152-99	Sept 10	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning video gambling devices.
153-99	Sept 16	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo.

154-99	Sept 16	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp., regarding an initiative petition relating to a proposed constitutional amendment concerning video gambling devices.
159-99	Oct 14	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment relating to a sales tax to support passenger rail service.
162-99	Oct 15	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning collective bargaining for firefighters and related personnel.
163-99	Oct 15	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning the enactment of a sales tax to support technology parks.
165-99	Oct 28	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning a sales tax for rail passenger service.
171-99	Nov 4	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo, regarding an initiative petition relating to a proposed constitutional amendment concerning collective bargaining for firefighters and related personnel.
173-99	Nov 8	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning a sales tax for rail passenger service.
174-99	Nov 8	INITIATIVE.	Review and approval pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning the enactment of a sales tax to support technology parks.
176-99	Nov 5	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, for a proposed constitutional amendment to allow collective bargaining by firefighters and related personnel.
178-99	Nov 9	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, for a proposed constitutional amendment to allow collective bargaining by firefighters

			and related personnel.
<u>181-99</u>	Nov 19	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, for a proposed constitutional amendment to impose a sales tax to support technology parks.
<u>182-99</u>	Nov 23	INITIATIVE.	Review and approval of legal content and form of a fiscal note summary prepared pursuant to Section 116.175, RSMo, for a proposed constitutional amendment to impose a sales tax to support rail passenger service.
<u>183-99</u>	Nov 24	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning concealed weapons.
<u>184-99</u>	Nov 24	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning concealed weapons.
<u>185-99</u>	Nov 24	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning concealed weapons.
<u>189-99</u>	Nov 24	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp., regarding an initiative petition relating to a proposed constitutional amendment concerning a sales tax for rail passenger service.
<u>192-99</u>	Nov 24	INITIATIVE.	Review and approval of legal content and form of a summary statement prepared pursuant to Section 116.334, RSMo Supp., regarding an initiative petition relating to a proposed constitutional amendment concerning the enactment of a sales tax to support technology parks.
<u>196-99</u>	Dec 9	INITIATIVE.	Review and rejection pursuant to Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed law concerning the awareness of unidentified flying objects.



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October 29, 1999

Opinion No. 67-99

Senator Francis Flotron
7th Senatorial District
Room 331 State Capitol
Jefferson City, MO 65101

Dear Senator Flotron:

This letter is in response to your opinion request asking:

Whether or not the mayor of a Third Class City in a First Class Charter County has the power to appoint a person to fill a vacancy in the office of Councilmember when said Councilmember dies six (6) months and two (2) days before the next general election but where the office is not declared vacant until the next City Council meeting which occurs within six (6) months of the next general municipal election where the City has an Ordinance prescribing that said vacancy shall be filled by the Mayor by appointment. The question deals with when the vacancy occurs and the ability to appoint someone to replace a Councilmember in a Third Class Statutory City.

The letter states that the City of Chesterfield is a Third Class Statutory City located in St. Louis County.

Section 77.450, RSMo, applies to vacancies in any elective office in a third class city located in certain first class counties. It provides:

Vacancies, how filled. -

In counties of the first class with a charter form of government which have a population of at least nine hundred thousand inhabitants, *if a vacancy occurs in any elective office, the mayor, or the person exercising the office of mayor, shall cause a special election to be held to fill such vacancy.* When any such vacancy occurs within six months of a municipal election, no election shall be called to fill such vacancy, but the same shall be filled by the

mayor or the person exercising the office of mayor by appointment. Any vacancy in the office of councilman which occurs within the six months shall be filled by election, in such manner as may be provided by ordinance. In all other counties, if a vacancy occurs in any elective office, the mayor, or the person exercising the office of mayor, shall recommend a person to fill the vacancy from the political party of the person who previously held the office. The council shall approve the person recommended by the mayor. The successor shall serve until the next regular election. If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of the same until the first regular meeting of the council thereafter, at which time the vacancy shall be permanently filled.

Emphasis added. The question presented is when a vacancy in the office of Councilmember is deemed to have occurred.

When interpreting a statute, it must be read in conjunction with other statutes involving the same subject matter. *Farmers' Electric Cooperative, Inc. v. Missouri Department of Corrections*, 977 S.W.2d 266, 270 (Mo. banc 1998). Section 77.240, RSMo, provides for the procedure to replace a vacancy in the office of mayor of a third class city:

77.240. Vacancy in office of mayor, how filled – president pro tem, duties of. –
When any vacancy shall happen in the office of mayor, by death, resignation, removal from the city, removal from office, refusal to qualify or otherwise, the president pro tem of the council shall act as mayor until the next regular election except in counties of the first class with a charter form of government which have a population of at least nine hundred thousand inhabitants. In the case of a temporary absence of the mayor or disability to perform the duties of his office, the president pro tem of the council shall perform the duties of mayor until the mayor shall return or such disability be removed; and during the time the president pro tem of the council shall act as mayor, he shall receive the same compensation that the mayor would be entitled to. ***In counties of the first class with a charter form of government and which do not contain a city with a population of at least four hundred thousand, in case of***

Senator Francis Flotron
October 29, 1999
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vacancy other than a temporary absence or disability, the person exercising the office of mayor shall cause a new election to be held; provided, when a vacancy occurs within six months of a municipal election, no election shall be called to fill such vacancy.

Emphasis added. As Section 77.240 suggests, a vacancy in the office of mayor is triggered by an event such as a death, resignation, or removal from the city and not by any subsequent act of the council. Therefore, the vacancy in the council occurred on the date of the council member's death and, so long as the vacancy occurs more than six months before the next municipal election, the mayor shall call for a special election pursuant to Section 77.450, RSMo.¹

CONCLUSION:

It is the opinion of this office that a council member's office becomes vacant at the time of his death and therefore, pursuant to Section 77.450, RSMo, a special election shall be held to fill the vacancy where that vacancy occurs more than six months before the next municipal election.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General

¹ While this opinion is limited to construing the term vacancy, we also note that the language of Section 77.450, RSMo, specifically addresses the situation when a vacancy in the council occurs within six months before the next municipal election: "... Any vacancy in the office of councilman which occurs within the six months shall be filled by election, in such manner as may be provided by ordinance." Even if the vacancy occurs within six months before the next municipal election, this provision indicates that it must be filled by election with the council determining by ordinance how, not whether, such election would occur.

APPRAISERS:
COUNTY BOARD OF EQUALIZATION:
DEPARTMENT OF REVENUE:
PROFESSIONAL REGISTRATION,
DIVISION OF:
REAL ESTATE:
STATE TAX COMMISSION:

Beginning July 1, 1999, it will be unlawful for any person who is not licensed or certified by the Missouri Real Estate Appraisers Commission as provided in Sections 339.500 to 339.549, RSMo, to, for a fee, develop and communicate a real estate appraisal before the State Tax Commission or a

local Board of Equalization unless such person is exempt from licensure and certification pursuant to Section 339.501.5, RSMo Supp. 1998; a salaried employee of a corporation that owns property will be permitted under the exemption in Section 339.501.5(1) to provide an opinion as to the value of the property owned by the corporation.

March 17, 1999

OPINION NO. 79-99

Quentin Wilson
Director of Revenue
Post Office Box 475
Jefferson City, MO 65105

Dear Director Wilson:

This opinion is in response to your questions, submitted on behalf of the State Tax Commission, asking:

1. Is the offering of an appraisal (as that term is defined in Section 339.503(1) (HB 1601, 1998)) on real property for a fee by a person, who is not licensed or certified under Sections 339.500 through 339.549 (HB 1601, 1998), in a proceeding before the State Tax Commission a violation of law under those sections?

2. Is the offering of an appraisal (as that term is defined in Section 339.503(1) (HB 1601, 1998)) on real property for a fee by a person, who is not licensed or certified under Sections 339.500 through

339.549 (HB 1601, 1998), in a proceeding before a local Board of Equalization a violation of law under those sections?

3. Is the provision of an appraisal (as that term is defined in Section 339.503(1) (HB 1601, 1998)) on real property to a property tax assessing official by a salaried employee of the property owner, who performs appraisal services within the scope of his or her employment and who is not licensed or certified under Sections 339.500 through 339.549 (HB 1601, 1998), a violation of law under those sections?

4. If any of the above scenarios are violations of law, how does that impact the assessing official's ability to consider the provided information?

Section 339.501.1, RSMo Supp. 1998, provides:

339.501. Licensure or certification of real estate appraisers required, exceptions.--1. Beginning July 1, 1999, it shall be unlawful for any person in this state to act as a real estate appraiser, or to directly or indirectly, engage or assume to engage in the business of real estate appraisal or to advertise or hold himself or herself out as engaging in or conducting such business without first obtaining a license or certificate issued by the Missouri real estate appraisers commission as provided in sections 339.500 to 339.549.

Section 339.503, RSMo Supp. 1998, provides definitions relevant in interpreting Section 339.501.1. Section 339.503 provides in part:

339.503. Definitions.--As used in sections 339.500 to 339.549, the following words and phrases mean, unless the context clearly indicates otherwise:

(1) "**Appraisal**" or "**real estate appraisal**", an objective analysis, evaluation, opinion, or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis;

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(16) "**Real estate appraiser**" or "**appraiser**", a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein;

(17) "**Real estate appraising**", the practice of developing and communicating real estate appraisals;

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Certain persons are exempted from the requirement to obtain a license or certificate under Sections 339.500 to 339.549. Those persons exempted in Section 339.501.5 are:

5. The provisions of sections 339.500 to 339.549 shall not be construed to require a license or certificate for:

(1) Any person, partnership, association or corporation who, as owner, performs appraisals of property owned by such person, partnership, association or corporation;

(2) Any licensed real estate broker or salesperson who prepares a comparative market analysis or a broker price opinion;

(3) Any employee of a local, state or federal agency who performs appraisal services within the scope of his or her employment; except that, this exemption shall not apply where any local, state or federal agency requires an employee to be registered, licensed or certified to perform appraisal services;

(4) Any employee of a federal or state-regulated lending agency or institution;

(5) Any agent of a federal or state-regulated lending agency or institution in a county of third or fourth classification.

Section 339.501.1 provides that, beginning July 1, 1999, it shall be unlawful for any person in this state to act as a real estate appraiser without first obtaining a license or certificate issued by the Missouri Real Estate Appraisers Commission as provided in Sections 339.500 to 339.549. Section 339.503(16) defines "real estate appraiser" as a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate. Section 339.503(1) defines "real estate appraisal" to include an opinion relating to the value of identified real estate. Therefore, pursuant to Section 339.501.1, beginning July 1, 1999, it is unlawful for any person who is not licensed or certified by the Missouri Real Estate Appraisers Commission to, for a fee or valuable consideration, develop and communicate an opinion of the value of identified real estate, unless otherwise exempted. Section 339.501.5 provides exemptions from the requirement for licensure or certification by the Missouri Real Estate Appraisers Commission. In your first and second questions you inquire about the offering of an appraisal in a proceeding before the State Tax Commission or before a local Board of Equalization. You have provided no facts which indicate the applicability of any of the exemptions in Section 339.501.5. The fact that the appraisal is offered in a proceeding before the State Tax Commission or a local Board of Equalization does not, in itself, provide an exemption.

Your third question inquires about the providing of an appraisal to a property tax assessing official by a salaried employee of the property owner when the employee performs appraisal services within the scope of his or her employment. Section 339.501.5(1) provides an exemption for "[a]ny person, partnership, association or corporation who, as owner, performs appraisals of property owned by such person, partnership, association or corporation." You have provided no facts indicating the specific situation about which are concerned. In order to provide guidance in response to your question, we will assume a situation where property is owned by a corporation and the appraisal is provided to a property tax assessing official by a salaried employee of that corporation. The exemption in Section 339.501.5(1) includes corporations. For an exemption under Section 339.501.5(1) to be applicable to corporations, it must include the officers and employees of the corporation. Otherwise, the exemption for a "corporation" would be meaningless. The legislature is presumed not to enact meaningless provisions. Wollard v. City of Kansas City, 831 S.W.2d 200, 203 (Mo. banc 1992). Therefore, a salaried employee of a corporation that owns property will

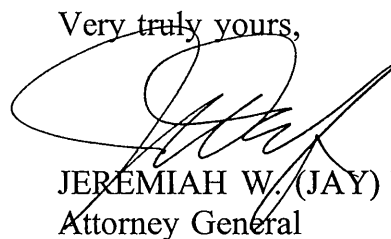
be permitted under the exemption in Section 339.501.5(1) to provide an opinion as to the value of the property owned by the corporation.¹

Your fourth question asks about the assessing official's ability to consider an appraisal offered in violation of Section 339.501.1. The fourth question you pose is not one with which this office can assist you through our opinions process. What consideration, if any, to be given an appraisal offered in violation of Section 339.501.1 is a matter for the assessing official.

CONCLUSION

It is the opinion of this office that beginning July 1, 1999, it will be unlawful for any person who is not licensed or certified by the Missouri Real Estate Appraisers Commission as provided in Sections 339.500 to 339.549, RSMo, to, for a fee, develop and communicate a real estate appraisal before the State Tax Commission or a local Board of Equalization unless such person is exempt from licensure and certification pursuant to Section 339.501.5, RSMo Supp. 1998; a salaried employee of a corporation that owns property will be permitted under the exemption in Section 339.501.5(1) to provide an opinion as to the value of the property owned by the corporation.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

¹Section 339.503(16) defines a "real estate appraiser" as a person who for a fee or valuable consideration [Emphasis added.] Because of the conclusion reached in response to your third question, we need not address if a salaried employee is receiving "a fee or valuable consideration" for the real estate appraisal.

BALLOTS:
COUNTY SALES TAX:
ELECTIONS:
SHERIFFS:
TAXATION - GENERAL:
TAXATION - COUNTY SALES TAX:

The provision in subsection 2 of Section 67.582, RSMo Supp. 1997, stating "in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section" does

not prevent a county law enforcement sales tax question from being submitted to voters at the April 6, 1999 election even if a similar question was defeated at the April 7, 1998 election.

January 25, 1999

OPINION NO. 85-99

Wm. Page Bellamy
Lafayette County Prosecuting Attorney
P. O. Box 59
Lexington, MO 64067

Dear Mr. Bellamy:

This opinion is in response to your question asking:

Can a proposal for a new law enforcement sales tax be submitted to the voters at the 1999 municipal election date of April 6, 1999, when the same proposal failed on [April 7, 1998]?

Section 67.582, RSMo Supp. 1997, authorizes the governing body of certain counties to impose a sales tax for law enforcement purposes if the voters of the county authorize the governing body to impose such tax. Subsection 2 of Section 67.582 sets forth the form of the ballot proposition to be submitted to the voters and in addition states:

If a proposal receives less than the required majority, then the governing body of the county shall have no power to impose the sales tax herein

authorized unless and until the governing body of the county shall again have submitted another proposal to authorize the governing body of the county to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section. [Emphasis added.]

When interpreting statutes, courts must ascertain the intent of the legislature from the language used, give effect to that intent if possible, and consider the words used in their plain and ordinary meaning. State ex rel. Riordan v. Dierker, 956 S.W.2d 258, 260 (Mo. banc 1997). The statute under consideration provides in no event shall a proposal be submitted sooner than twelve months from the date of the last proposal. The statute refers to a period of time based on months. Section 1.020(10), RSMo 1994, defines the term "month" to mean "calendar month." Elections, with certain exceptions, are held the first Tuesday after the first Monday in certain months. Section 115.123, RSMo Supp. 1997, provides:

115.123. Public elections to be held on certain Tuesdays, exceptions.--1. All public elections shall be held on Tuesday. Except as provided in subsections 2, 3 and 4 of this section, and section 247.180, RSMo, all public elections shall be held on the general election day, the primary election day, the general municipal election day, the first Tuesday after the first Monday in February or November, or on another day expressly provided by city or county charter.

2. Notwithstanding the provisions of subsection 1 of this section, school districts may hold elections on the first Tuesday after the first Monday in June and in nonprimary years on the first Tuesday after the first Monday in August, and municipalities may hold elections in nonprimary years on the first Tuesday after the first Monday in August.

3. The following elections shall be exempt

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[Emphasis added.]

Section 115.121, RSMo Supp. 1997, provides:

115.121. General election, when held--primary election, when held--general municipal election day defined.--1. The general election day shall be the first Tuesday after the first Monday in November of even-numbered years.

2. The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.

3. The election day for the election of political subdivision and special district officers shall be the first Tuesday after the first Monday in April each year; and shall be known as the "general municipal election day". [Emphasis added.]

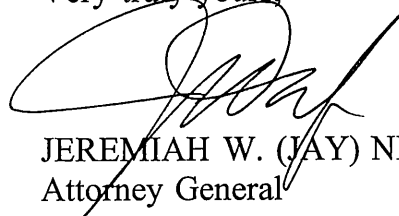
Because elections, in most circumstances, are limited to only one day in certain months ("the first Tuesday after the first Monday" of certain months) and because the time period referred to in subsection 2 of Section 67.582 is stated in "months" ("twelve months"), we conclude the statutory prohibition on submitting a proposal sooner than twelve months from the date of the last proposal should be viewed in terms of "months" rather than the given day of a particular month. An election held in April 1999 is not sooner than twelve months from an election held in April 1998.

Furthermore, the legislature is presumed not to intend an unreasonable or absurd result but rather a logical one. State ex rel. Foster v. Morris, 913 S.W.2d 85, 86 (Mo. App. E.D. 1995). "General municipal election day" is the first Tuesday after the first Monday in April each year. Section 115.121, RSMo Supp. 1997. In some years the general municipal election day will be more than 365 days after the preceding general municipal election day and in other years less than 365 days. For example, general municipal election day in 1996 was April 2, 1996 and in 1997 was April 8, 1997, a difference of more than 365 days. However, general municipal election day in 1999 will be April 6, 1999 but in 2000 will be April 4, 2000, a difference of less than 365 days. It is unreasonable to presume the legislature would have intended a proposal defeated in April 1996 could be voted on again in April 1997 but a proposal defeated in April 1999 cannot be voted on again in April 2000. A more logical result is that a proposal defeated in April of one year may be voted on again in April of the following year, regardless of which day in April is general municipal election day.

CONCLUSION

It is the opinion of this office that the provision in subsection 2 of Section 67.582, RSMo Supp. 1997, stating "in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section" does not prevent a county law enforcement sales tax question from being submitted to voters at the April 6, 1999 election even if a similar question was defeated at the April 7, 1998 election.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the printed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General

CITY-COUNTY LIBRARIES:
LIBRARIES:
LIBRARY TAXES:
PROPERTY TAX:

With regard to a city-county library district created pursuant to Section 182.291, RSMo 1994, (1) the property tax rate for the district is set each year by the board of trustees of the district, and (2) the board may set the property tax rate in a given year at less than the maximum authorized rate.

June 4, 1999

OPINION NO. 87-99

The Honorable Carl Vogel
State Representative, District 114
State Capitol Building
Jefferson City, MO 65101

Dear Representative Vogel:

This opinion is in response to your questions asking:

1. May a city-county library district created pursuant to Section 182.291, RSMo, lower its tax levy rate? If so, which government entity has the authority for reducing said levy rate (the city-county library district trustees or the county or city governing body that appointed the trustees)? Is voter approval required before lowering the levy?
2. If a library district reduces its levy without voter approval, and voter approval is required, what is the legal effect?
3. If a city-county library district has authority to voluntarily (i.e., it is not mandated by the Hancock Amendment) lower its levy and does so, what are the restrictions of Section 181.060?

The city-county library district which is the subject of your questions was created pursuant to Section 182.291, RSMo 1994. Section 182.291 provides in relevant part:

182.291. City-county library, how organized--board of trustees, duties--effect of merger on assets and liabilities--funds, how handled--budget required.--

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3. The city-county library shall be under the control and supervision of a board of trustees of nine members. If the population of the county is larger than that of the city, the county governing body shall appoint five members of the library board. If the population of the county is less than that of the city, the county governing body shall appoint four members of the library board. If the population of the city is larger than that of the county, the mayor of the city shall appoint five members to the library board. If the population of the city is less than that of the county, the mayor shall appoint four members to the library board. The members shall serve a term of three years Immediately upon their appointment, the board shall organize as provided in section 182.060; and thereupon the city board shall cease to exist and shall turn over all property, books and records to the city-county board.

4. All unexpended funds of the preexisting separate city and county library districts shall be deposited by the custodians thereof with the city treasurer immediately upon the issuance of the county governing body's approval of the petition.

5. For all tax purposes, including levies and adjustments thereof, the city library district shall become a part of the county library district at the beginning of the next fiscal year after the merger and the property within the city library district shall be treated as within the county library district for all such purposes; except, until the city library district shall become a part of the county library district the levy and collection of taxes shall be made as though no merger had taken place, so that the levy and collection of taxes shall be without interruption, and during that period no change in the levy shall take place. The funds collected shall be turned over to the city treasurer immediately upon collection.

6. All of the real and personal property and all of the obligations of the preexisting separate city and county library districts shall, without further action, become the property and obligations of the merged city-

county library district, which shall have an official name composed of the name of the city, followed by the name of the county and followed by the words "County Library District".

7. The merged district, and the librarian, officials and board thereof, shall have all of the rights, powers, responsibilities, and privileges granted county library districts by the laws of the state of Missouri and shall be governed by such laws, as though the merged districts were a county library district, except:

(1) Where such laws are inconsistent with this section;

(2) The treasurer of the board of trustees of the library district shall receive and be the custodian of all moneys, belonging to the district from whatever source derived

(3) The library board shall prepare a budget for each fiscal year and all expenditures shall conform to such budget. The budget shall be prepared and approved by the library board and made available to the members of the governing body of the city and the members of the county governing body [Emphasis added.]

Section 182.291.7 indicates that the city-county library district about which you are concerned is governed by the laws applicable to county library districts with certain exceptions. Section 182.020, RSMo 1994, relates to the levying of a property tax for a county library district. Such section provides in relevant part:

182.020. Levy and collection of tax--reconsideration of tax--increase in tax levy procedure, ballot form.--1. If, from returns of the submission of the question, the majority of all the votes cast are in favor of establishing a county library district and for the tax for a free county library, the county governing body shall enter of record a brief recital of the returns and that there has been established ". county library district", and thereafter such ". county library district", shall be considered established; and the tax specified in the notice, subject to the provisions of this section, shall be levied and collected, from year to year.

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3. The tax may be reconsidered whenever the voters of any county library district shall so determine by a majority vote on such questions after petition, order, and notice of the election and of the purpose thereof, first having been made, filed, and given, as in the case of establishing such county library district. At least five years must elapse after the county library district has been established and a tax therefor has been levied before a question to reconsider the tax may be submitted under this subsection.

4. Whenever the county library board of trustees finds it appropriate, it may order an election on the question of increasing the tax established pursuant to subsection 2 of section 182.010 or increased pursuant to subsection 5 of section 182.010. Notice of the election shall be published in the same manner as is notice of an election to establish a county library district under section 182.010. The notice and order shall each recite the amount of the proposed increase. The question shall be submitted in substantially the following form:

"Shall the per hundred dollars assessed valuation tax for the county library be increased to per hundred dollars assessed valuation?"

If a majority of votes cast on the question are in favor of the increase, then the increased tax shall be levied and collected in the same manner as the tax was at its previous lower rate. [Emphasis added].

* * *

Also relevant to your questions is Section 137.073.5(3), RSMo Supp. 1998, which relates to property tax rates in general. Such provision states:

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

The issue about which you are concerned in your first question appears to be whether the district may voluntarily levy less than the maximum authorized property

tax rate.¹ Section 137.073.5(3) specifically provides that a political subdivision may levy a tax rate lower than its tax rate ceiling. The provision now numbered as Section 137.073.5(3) was initially enacted in 1979. See House Substitute for House Committee Substitute for Senate Bill No. 247 and Senate Committee Substitute for Senate Bills Nos. 333 and 254, Laws of Missouri, 1979, page 322. Section 137.073.1(3) defines "tax rate ceiling" as being the maximum tax rate that may be levied without voter approval of a higher rate. Yet, Section 182.020 provides for the tax specified in the notice to be levied and collected and provides a procedure for voters to reconsider the property tax rate. Such provision in Section 182.020 has been in existence since prior to 1939. See Section 14767, RSMo 1939.

Statutes which seemingly are in conflict should be harmonized so as to give meaning to both statutes. State ex rel. Riordan v. Dierker, 956 S.W.2d 258, 260 (Mo. banc 1997). In construing statutes, courts attempt to harmonize each statutory enactment, considering the entire legislative scheme and looking at the plain meaning of language used. AG Processing, Inc. v. South St. Joseph Industrial Sewer District, 937 S.W.2d 319, 324 (Mo. App. W.D. 1996). If the legislature enacts two laws which are so inimical to each other that both cannot stand, the later statute in point of time controls. Klinginsmith v. Missouri Department of Consumer Affairs, Regulation and Licensing, Division of Insurance, 693 S.W.2d 226, 230 (Mo. App. W.D. 1985).

Following these rules of statutory construction, we conclude that under Section 137.073.5(3), the district in a given year may levy a property tax rate less than the maximum authorized rate. Pursuant to that section, the district may increase the rate back to the maximum authorized rate in subsequent years without voter approval. It is unreasonable to interpret the statutes to compel the district to levy a property tax rate at the maximum authorized rate if the district concludes such amount of revenue is not needed for library purposes. The legislature is presumed not to intend an unreasonable or absurd result but rather a logical one. Masterson v. Roosevelt Bank, 919 S.W.2d 9, 10 (Mo. App. E.D. 1996).

We conclude that the provisions in Section 182.020 apply to the maximum authorized property tax rate. Following the procedures in that section the voters may reconsider the maximum authorized property tax rate. The district may, in a specific

¹This opinion only addresses situations involving the district voluntarily levying less than the maximum authorized property tax rate. The opinion does not address rollbacks in the property tax rate required by Section 137.073, RSMo Supp. 1998, or Article X, Section 22 of the Missouri Constitution (the "Hancock Amendment").

year, levy the maximum authorized rate or a lower rate as authorized by Section 137.073.5(3).

As a part of your first numbered question, you ask who sets the property tax rate for the city-county library district, the city-county library district trustees or the county or city governing body. As previously pointed out, under Section 182.291.7, the city-county library district is governed by the laws applicable to county library districts with certain exceptions. Section 182.070, RSMo Supp. 1998, applicable to county library districts, provides the library district is a body corporate with the following general powers:

182.070. General powers of district--seal.--The county library district, as a body corporate, by and through the county library board of trustees, may sue and be sued, complain and defend, and make and use a common seal, purchase or lease grounds, purchase, lease, occupy or erect an appropriate building for the use of the county library and branches thereof out of current funds if such funds are available above those necessary for normal operations or, as provided in section 182.105, and sell, convey, lease, exchange, transfer and otherwise dispose of all or any part of its real or personal property, or any interest therein, or other assets wherever situated for and on behalf of the county library and branches thereof, receive gifts of real and personal property for the use and benefit of the county library and branch libraries thereof, the same when accepted to be held and controlled by the board of trustees, according to the terms of the deed, gift, devise or bequest of such property. [Emphasis added.]

The section places these powers in the library district's board of trustees. Section 182.105, RSMo 1994, relates to the issuance of bonds by a county library board. Subsection 3 of Section 182.105 specifically provides for the property tax rate to pay the bonds to be set by the county library board. Such subsection provides:

3. Before incurring any indebtedness as authorized in this section, the county library board shall provide for the collection of an annual tax on all taxable, tangible property in the county library district sufficient to pay the interest and principal of the indebtedness as they shall fall due and to retire the same within twenty years from the date contracted. [Emphasis added.]

See also Missouri Attorney General's Opinion No. 20, O'Halloran, 1972 ("The governing boards of . . . city-county . . . libraries are vested with the administrative authority of such libraries and are not under the direction of the officers or governing bodies of such . . . counties.") and Opinion No. 14, Dyer, 1982 ("A city-county library district organized under Chapter 182, RSMo, may borrow short term funds for operating expenses."). A copy of each opinion is enclosed. Based on the powers granted to the city-county library district board of trustees, we conclude that board sets the property tax rate each year for the city-county library district.

Because of our conclusions in response to your first numbered question, it is not necessary to address your second numbered question.

Your final question asks about the restrictions in Section 181.060, RSMo 1994. Section 181.060 provides in relevant part:

181.060. State aid for public libraries--appropriation--distribution--allocation--procedure--requirements.--1. The general assembly may appropriate moneys for state aid to public libraries, which moneys shall be administered by the state librarian, and distributed as specified in rules and regulations promulgated by the Missouri state library, and approved by the secretary of state.

2. At least fifty percent of the moneys appropriated for state aid to public libraries shall be apportioned to all public libraries established and maintained under the provisions of the library laws or other laws of the state relating to libraries. The allocation of the moneys shall be based on an equal per capita rate for the population of each city, village, town, township, urban public library district, county or consolidated library district in which any library is or may be established, in proportion to the population according to the latest federal census of the cities, villages, towns, townships, school districts, county or regional library districts maintaining public libraries primarily supported by public funds which are designed to serve the general public. No grant shall be made to any public library which is tax supported if the rate of tax levied or the appropriation for the library should be decreased below the rate in force on December 31, 1946, or on the date of its establishment. Grants shall be made to any public library if a public library tax of at least ten cents per one hundred dollars assessed valuation has been voted in accordance with sections 182.010 to 182.460, RSMo, or as authorized in section

137.030, RSMo, and is duly assessed and levied for the year preceding that in which the grant is made, or if the appropriation for the public library in any city of first class yields one dollar or more per capita for the previous year according to the population of the latest federal census or if the amount provided by the city for the public library, in any other city in which the library is not supported by a library tax, is at least equal to the amount of revenue which would be realized by a tax of ten cents per one hundred dollars assessed valuation if the library had been tax supported. Except that, no grant under this section shall be affected because of a reduction in the rate of levy which is required by the provisions of section 137.073, RSMo. [Emphasis added.]

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You indicate in your question you are not concerned about the lowering of the property tax rate because of the Hancock Amendment. Section 181.060.2 states that no grant shall be affected because of a reduction in the rate required under Section 137.073.

We have not been provided information regarding the property tax rate of the city-county library district about which you are concerned. Without specific information regarding the property tax rate of the district, it is not feasible to determine if the restrictions in Section 181.060 apply to the district. However, the fact the district may levy a lower property tax rate than voted by the people does not necessarily disqualify the district from receiving state aid. In Opinion No. 72, Price, February 13, 1958, a copy of which is enclosed, this office stated at page 3:

You do state that the rate levied and collected is "less than the library tax rate voted by the people." We do not believe that this fact disqualifies the library from receiving state aid because there is nothing in the library law as set forth in Chapter 181 or more specifically in Section 181.060, supra, which makes such a matter prerequisite to receiving state aid.

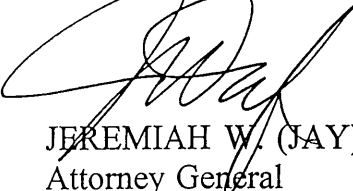
Although Section 181.060 has been amended since the date of the opinion, the statement set forth above is still valid.

The Honorable Carl Vogel
Page 9

CONCLUSION

It is the opinion of this office with regard to a city-county library district created pursuant to Section 182.291, RSMo 1994, (1) the property tax rate for the district is set each year by the board of trustees of the district, and (2) the board may set the property tax rate in a given year at less than the maximum authorized rate.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosures



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

January 25, 1999

OPINION LETTER NO. 90-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

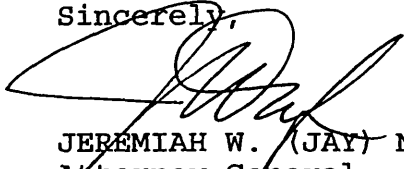
Dear Secretary Cook:

As required by court order, you have submitted to us a summary statement prepared pursuant to Section 116.160, RSMo, relating to Senate Substitute for House Committee Substitute for House Bill No. 1891, 89th General Assembly, Second Regular Session (1998). The summary statement which you have submitted is as follows:

Shall sheriffs, or in the case of St. Louis County, the chief of police, be required to issue permits to carry concealed firearms to citizens who apply if various statutory requirements are satisfied?

Pursuant to Section 116.160, we approve the legal content and form of the proposed statement. No action we take with respect to our review should be construed as an endorsement of the ballot measure or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

January 25, 1999

OPINION LETTER NO. 91-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

As required by court order, you have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

Because of the discretion given to local law enforcement to verify the accuracy of applications, the costs are uncertain. Application fees are estimated to cover most costs for the first three years. Subsequently, local governments, as a whole, may incur costs from \$500,000 to \$1,000,000 annually, not covered by fees.

See our Opinion Letter No. 90-99.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. No action we take with respect to such review should be construed as an endorsement of the ballot measure or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

COUNTIES:
COUNTY SALES TAX:
TAXATION - COUNTY SALES TAX:

With regard to the capital improvements sales tax authorized by Section 67.700, RSMo 1994, 1) a proposition to authorize the tax for the purpose of

improvements to roads and bridges should be voted on separately from a proposition to authorize the tax for the purpose of repairs to the courthouse and construction of a new jail facility, and 2) both propositions may be submitted to the voters where the total capital improvements sales tax rate does not exceed one-half of one percent.

June 4, 1999

OPINION NO. 97-99

Cristy Baker-Neel
Scott County Prosecuting Attorney
P. O. Box 160
Benton, MO 63736

Dear Prosecutor Baker-Neel:

This opinion is in response to your questions asking:

1. Can a single Capital Improvements Sales Tax be imposed pursuant to Section 67.700, RSMo, to fund multiple capital improvements if the tax imposed by the County Commission and approved by the voters specifies each of the capital improvements to be funded by the tax?

2. If so, must the ballot for submitting the tax to the voters for their approval pursuant to Section 67.700, RSMo, reference the percentages of tax revenue which will be used for each particular capital improvement?

With regard to your questions, you state: "The Scott County Commission would propose that the proceeds from the sales tax be utilized to fund three (3) badly needed capital improvements within the County. These improvements would include repairs to the Scott County Courthouse, improvement of roads and bridges in the county and construction of a new jail facility." You also state there is no capital improvements sales tax currently being imposed by Scott County. Scott County is a third class county.

Section 67.700, RSMo 1994, authorizes the county sales tax about which you inquire. Such section provides in relevant part:

67.700. Sales tax for capital improvements may be imposed in certain counties, procedure--use of revenue--tax effective when--brackets to be established--rate of tax--sales tax revenue collected, defined.-- 1. Any county, as defined in section 67.724, may, by ordinance or order, impose a sales tax on all retail sales made in such county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo, for any capital improvement purpose designated by the county in its ballot of submission to its voters; provided, however, that no ordinance or order enacted pursuant to the authority granted by sections 67.700 to 67.727 shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary, or special election, a proposal to authorize the governing body of the county to impose a tax under the provisions of sections 67.700 to 67.727. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county of (county's name) impose a countywide sales tax at the rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of (insert capital improvement purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the sales tax authorized by sections 67.700 to 67.727 unless and until the governing body of the county shall again have submitted another proposal to authorize it to impose the sales tax under the provisions of sections

67.700 to 67.727 and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by a county from the tax authorized by sections 67.700 to 67.727 which has been designated for a certain capital improvement purpose shall be deposited in a special trust fund and shall be used solely for such designated purpose. Upon the expiration of the period of years approved by the voters under subsection 2 of this section or if the tax authorized by sections 67.700 to 67.727 is repealed under section 67.721, all funds remaining in the special trust fund shall continue to be used solely for such designated capital improvement purpose. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds.

4. The sales tax may be imposed at a rate of one-fourth of one percent, three-eighths of one percent, or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. [Emphasis added.]

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We first address whether the ballot proposition may enumerate only one capital improvement purpose or may list several capital improvement purposes. Throughout Section 67.700, when referring to the use of the sales tax revenue, the section refers to the singular "purpose"; "any capital improvement purpose" (subsection 1 of Section 67.700), the form of ballot refers to "for the purpose" and "capital improvement purpose" (subsection 2), and the proceeds of the sales tax are restricted "for a certain capital improvement purpose" and "solely for such designated purpose" (subsection 3). In determining the legislature's intent, we must examine the words used in the statute and the context in which the words are used. Wilson v. Director of Revenue, 873 S.W.2d 328, 329 (Mo. App. E.D. 1994). Considering the words used in the statute and their context, we conclude that the voters should be permitted to approve or disapprove a capital improvements sales tax for a specific purpose.¹

¹We are not unaware of Section 1.030, RSMo 1994, indicating that in legislative enactments, the singular may be taken as including the plural. However, in the context

"It has long been the law of Missouri that doubleness in propositions submitted to voters . . . is to be condemned to prevent the yoking together of distinct things to the end that the two combined may attract a majority of the voters when neither separately might be able to do so." Henkel v. City of Pevely, 504 S.W.2d 141, 146 (Mo. App. 1973). "But not every proposition which contains multiple submissions is to be condemned." Id. at 147. "The test whether there is presented a single or multiple proposition is whether or not there exists a natural relationship between the objects united in one proposition and whether or not the several projects are so related that united they form in fact one rounded whole." Id. Cases relating to what constitutes a single purpose are summarized in State ex rel. Taylor ex rel. Schwerdt v. Reorganized School District R-3, Warren County, 257 S.W.2d 262, 267 (Mo. App. 1953):

The submission of propositions containing more than one *project* has been approved in a number of cases. The typical situation is a proposition to issue bonds. The following submissions of bond issues have been held to be single and therefore permissible: to erect and furnish two school buildings, one on one site and one on another, [citation omitted]; to erect and construct athletic field bleachers, a 16 room high school building and a 4 room elementary school, Kellams v. Compton, supra, [206 S.W.2d 498 (Mo. 1947)]; to construct, maintain and operate *or* purchase an electric light plant, [citation omitted]; to purchase schoolhouse sites, erect schoolhouses and furnish the same, and building additions to and repair old buildings, [citation omitted]; . . . to build new buildings and additional buildings, [citation omitted]; to build a courthouse, to equip and furnish it and to purchase more ground if more ground were needed for a suitable site, [citation omitted]; to build a schoolhouse in the first ward and furnish the same and to build an addition to and improve the schoolhouse in the second ward, [citation omitted]. . . . In these cases, as in cases wherein the several propositions contained in a single submission were *interdependent* [citation omitted], it is held that the rule prohibiting doubleness is not violated.

In addition to the cases summarized above, in State ex rel. Phelps County v. Holman, 461 S.W.2d 689 (Mo. banc 1971), the Missouri Supreme Court considered a ballot

of Section 67.700, we conclude the legislature intended the voters have an opportunity to express their approval or disapproval on a sales tax for a specific capital improvement purpose.

proposition for a county bond issue of \$1,345,000, with \$995,000 for hospital expansion and \$350,000 for a nursing home facility. The court found the hospital and nursing home facility to be rather closely and naturally related and held the ballot proposition was not subject to the vice of doubleness in submissions at elections.

The three projects about which you are concerned are repairs to the courthouse, construction of a new jail facility and improvements to roads and bridges. In comparing these projects to the projects considered in the cases summarized above, we conclude that repairs to the courthouse and construction of a new jail facility constitute a single capital improvement purpose. Both relate to the construction and repair of county buildings. Such conclusion is consistent with the cases above, particularly Kellams v. Compton, supra, where erecting and constructing athletic field bleachers could be combined with erecting and constructing a high school building and elementary school and State ex rel. Phelps County v. Holman, supra, where expanding the county hospital could be combined with building a county nursing home facility.

We conclude that improvements to roads and bridges may not be combined with repairs to the courthouse and construction of a new jail facility. Improvements to roads and bridges is not naturally related or connected with the other two projects. Combining improvements to roads and bridges with the other two projects would result in "doubleness" in submissions at elections which is universally condemned. A voter, in order to get what he earnestly wants, may be forced to vote for something which such voter does not want.

Having concluded that the project for improvements to roads and bridges must be a separate proposition from the projects for repairs to the courthouse and construction of a new jail facility, we turn to the form of ballot. Section 67.700.4 provides the capital improvements sales tax may be imposed at a rate of one-fourth of one percent, three-eighths of one percent, or one-half of one percent. The maximum sales tax rate for capital improvements cannot exceed one-half of one percent under Section 67.700.4.² However, there is no statutory prohibition on submitting two propositions to the voters for capital improvements sales tax where the total sales tax

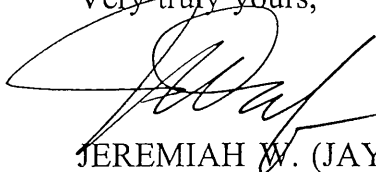
²We are aware of a circuit court decision holding there is no limit on the total capital improvements sales tax rate as long as each proposition provides for a sales tax rate of one-fourth of one percent, three-eighths of one percent, or one-half of one percent. There is no reported appeal of the circuit court decision. With due respect to the circuit court, we disagree with the circuit court decision.

does not exceed one-half of one percent. See Opinion No. 61-89, a copy of which is enclosed, where this office concluded the maximum county sales tax rate under Section 67.547, RSMo, could be imposed by voter approval at two separate elections. For example, one proposition to impose a sales tax rate of one-fourth of one percent for X years for improvements to roads and bridges could be submitted to the voters and a second proposition to impose a sales tax rate of one-fourth of one percent for Y years for repairs to the courthouse and construction of a new jail facility could be submitted. The voters could approve both propositions, one proposition or neither proposition. If both propositions were approved by the voters, a sales tax rate of one-half of one percent would be imposed initially.³ If only one of the two propositions was approved by the voters, then the capital improvements sales tax would be imposed at the rate of one-fourth of one percent for the number of years specified in the proposition.

CONCLUSION

It is the opinion of this office with regard to the capital improvements sales tax authorized by Section 67.700, RSMo 1994, 1) a proposition to authorize the tax for the purpose of improvements to roads and bridges should be voted on separately from a proposition to authorize the tax for the purpose of repairs to the courthouse and construction of a new jail facility, and 2) both propositions may be submitted to the voters where the total capital improvements sales tax rate does not exceed one-half of one percent.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

³If the length of the sales tax under the first proposition was shorter than the length of the sales tax under the second proposition, the rate would fall to one-fourth of one percent for those years after the expiration of the sales tax under the first proposition but before the expiration of the sales tax under the second proposition. For example, if one proposition authorized the sales tax for 3 years and the second proposition authorized the sales tax for 5 years, during the fourth and fifth years, the rate would fall to one-fourth of one percent.

BAD CHECKS:

CHECKS:

INSUFFICIENT FUNDS CHECKS:

Notwithstanding subsection 6 of Section 570.120, RSMo 1994, under the facts considered, as provided in subsection 2 of Section 408.653, RSMo Supp. 1998, a

merchant may collect on an insufficient funds check a maximum service charge of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of the insufficient funds check.

June 4, 1999

OPINION NO. 98-99

The Honorable Connie Cierpiot
State Representative, District 52
State Capitol Building
Jefferson City, MO 65101

Dear Representative Cierpiot:

This opinion is in response to your question asking:

A reconciliation of Statutes 408.653 (item 2) and 570.120 (item 6) to determine the proper amount of service charge that can be assessed on returned or dishonored checks, drafts, orders or like instruments.

It appears you are concerned about a possible conflict between subsection 2 of Section 408.653, RSMo Supp. 1998, and subsection 6 of Section 570.120, RSMo 1994.

Subsection 2 of Section 408.653, RSMo Supp. 1998, provides:

408.653. Fee limitations, overdrafts.--

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2. Any person to whom a check, draft, order or like instrument is tendered may, if such instrument is dishonored or returned unpaid for any reason, charge and collect from the maker or drawer, or the person for whose benefit such instrument was given, the amount of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. No such charge will be considered interest, finance charge, time price differential or anything

of similar nature for purposes of any statute in this state. [Emphasis added.]

Section 570.120, RSMo 1994, provides, in relevant part:

570.120. Crime of passing bad checks, penalty--actual notice given, when-- administrative handling costs, amount, deposit in fund--use of fund--payroll checks, action, when--service charge may be collected--return of bad check to depositor by financial institution must be on condition that issuer is identifiable.--1. A person commits the crime of passing a bad check when:

* * *

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action under the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. . . .

6. Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check. [Emphasis added.]

* * *

For purposes of addressing the relationship between Section 570.120.6 and Section 408.653.2, we will consider the situation where a merchant receives a check from a person, deposits the check in the merchant's bank account, and then receives back from the bank the check because the person who wrote the check had insufficient funds. Section 570.120.6 indicates the merchant may collect from the person who wrote the check a "reasonable" service charge along with the face amount of the check. Section 408.653.2 indicates the merchant may collect from the person who wrote the check a service charge "of twenty dollars plus an amount equal to the actual charge by the depository institution" for the return of the check. The possible conflict between Section 570.120.6 and Section 408.653.2 results in your question.

Subsection 6 of Section 570.120 was added to Section 570.120 in 1993. See Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 180, Laws of Missouri, 1993, page 1537. Subsection 6 has remained unchanged since it was added in 1993.

Subsection 2 of Section 408.653 was added to Section 408.653 in 1994. See House Committee Substitute for Senate Bill No. 718, Laws of Missouri, 1994, page 1023. Subsection 2, as initially enacted, is the same as the current version of the subsection except where the word "twenty" appears in the current version, the word "fifteen" appeared in the initial version. The subsection was amended in 1998 to insert the word "twenty" in lieu of the word "fifteen." See House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 852 and 913, Laws of Missouri, 1998, page 1556.

Statutes must be read in harmony with one another, and a statute which deals with a subject in general terms will yield to a second statute dealing with the same subject in more detailed fashion. State ex rel. National Super Markets, Inc. v. Sweeney, 949 S.W.2d 289 (Mo. App., E. D. 1997). Section 570.120.6 deals with the subject in general terms, "reasonable service charge," while Section 408.653.2 deals with the subject in a more detailed fashion, "the amount of twenty dollars plus an amount equal to the actual charge by the depository institution."

A chronologically later statute, which functions in a particular way, will prevail over an earlier statute of a more general nature. Lett v. City of St. Louis, 948 S.W.2d 614 (Mo. App., E. D. 1996). Subsection 6 of Section 570.120 was added in 1993 and has not been amended. Subsection 2 of Section 408.653 was initially added in 1994. Section 408.653.2 is the chronologically later statute.

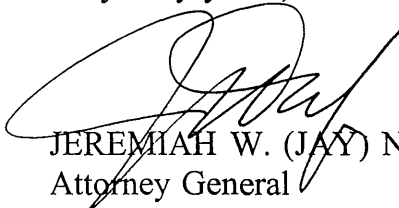
When the legislature amends a statute, the legislature is presumed to have intended the amendment to have some effect or to accomplish some legislative purpose. Bennett v. Director of Revenue, 889 S.W.2d 166 (Mo. App., W. D. 1994). In 1998, Section 408.653.2 was amended to change "fifteen" dollars to "twenty" dollars. The legislature must have intended this change to have some effect.

Following the rules of statutory construction discussed above, we conclude Section 408.653.2, the more detailed statute, enacted later and recently amended, prevails over Section 570.120.6 with regard to the amount that may be charged for a returned check. Therefore, under the facts considered, a merchant may collect on an insufficient funds check a maximum service charge of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of the insufficient funds check.

CONCLUSION

It is the opinion of this office that, notwithstanding subsection 6 of Section 570.120, RSMo 1994, under the facts considered, as provided in subsection 2 of Section 408.653, RSMo Supp. 1998, a merchant may collect on an insufficient funds check a maximum service charge of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of the insufficient funds check.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jay Nixon', is written over the printed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

April 16, 1999

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

OPINION LETTER NO. 107-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo Supp. 1998, for sufficiency as to form of an initiative petition relating to the amendment of Section 565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder. A copy of the initiative petition, consisting of two pages, which you submitted to this office on April 8, 1999, is attached for reference.

We conclude the petition must be rejected as to form for the following reasons:

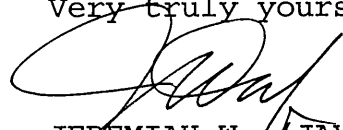
1. Article III, Section 50 of the Missouri Constitution requires the enacting clause on initiative petitions for statutory amendments to be: "Be it enacted by the people of the state of Missouri." The initiative petition submitted does not contain this enacting clause.
2. Article III, Section 50 of the Missouri Constitution and Section 116.050, RSMo Supp. 1998, require the initiative petition contain the full text of the proposed measure. The initiative petition submitted contains a question describing the current statute and the intended effect of the proposed amendment to the statute but does not contain the full text of the measure.
3. Section 116.050, RSMo Supp. 1998, requires "all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined." The initiative petition submitted does not contain the matter to be deleted in brackets and any new matter underlined. As described in numbered paragraph 2 above, the initiative petition submitted contains a question describing the current statute and the intended effect

The Honorable Rebecca McDowell Cook

of the proposed amendment to the statute. A letter from the person submitting the initiative petition to your office contains a quote of a subsection of Section 565.020, RSMo 1994, with the words apparently intended to be deleted in brackets; however, this transmittal letter is not a part of the initiative petition.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure

CONFLICT OF INTEREST: A member of an emergency services board to
EMERGENCIES: which Section 190.339, RSMo Supp. 1998,
INCOMPATIBILITY OF OFFICES: applies may not be employed by that board.
TELEPHONE:

May 11, 1999

OPINION NO. 109-99

Julia A. Roselle
Daviness County Prosecuting Attorney
102 North Main
Gallatin, MO 64640

Dear Prosecutor Roselle:

This opinion is in response to your questions asking:

Under Section 190.339 of the Missouri Revised Statutes, can a member of the emergency services board, work as an employee of that board? Does it matter how many/few hours the individual works or the manner in which the individual is compensated for the work done (ie. payroll v. reimbursements)?

Section 190.339, RSMo Supp. 1998, to which your questions refer, provides in relevant part:

**190.339. Emergency services board, powers and duties--
officers--removal of board members, reasons, hearing procedure--
vacancies--employment by board, limitations.--1.** The powers and
duties of the emergency services board shall include, but not be limited
to:

(1) Planning a 911 system and dispatching system;

(2) Coordinating and supervising the implementation, upgrading or
maintenance of the system, including the establishment of equipment
specifications and coding systems;

(3) Receiving money from any county sales tax authorized to be levied pursuant to section 190.335 and authorizing disbursements from such moneys collected;

(4) Hiring any staff necessary for the implementation, upgrade or operation of the system.

2. The administrative control and management of the moneys from any county sales tax authorized to be levied pursuant to section 190.335 and the administrative control and management of the central dispatching of emergency services shall rest solely with the board, and the board shall employ all necessary personnel, affix their compensation and provide suitable quarters and equipment for the operation of the central dispatching of emergency services from the funds available for this purpose.

*

*

*

9. Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

10. No person shall be employed by the board who is related within the fourth degree by blood or by marriage to any member of the board. [Emphasis added.]

It is a well-established common law principle that the employment of an individual by a public body of which the individual is a member is void as against public policy. In Nodaway County v. Kidder, 344 Mo. 795, 129 S.W.2d 857, 861 (1939), the court stated:

Appellant's alleged contract was also void as against public policy regardless of the statute. A member of an official board cannot contract with the body of which he is a member. The election by a Board of Commissioners of one of its own members to the office of clerk and agreement to pay him a salary was held void as against public policy.
* * * [Emphasis added.]

Julia A. Roselle

Page 3

Furthermore, in Polk Tp.. Sullivan County v. Spencer, 259 S.W.2d 804, 805 (Mo. 1953) the court said:

[T]he general rule is "that an officer of a public corporation cannot become personally interested in a contract with the board of which he is a member, or in a contract with such public corporation with reference to the performance of any labor or services as to which he has in any way a public duty to perform, either by overseeing or passing upon such labor, or auditing or allowing a claim therefor, or directing the payment thereof."

See also Attorney General Opinion No. 110-92; Attorney General Opinion No. 86-87; Attorney General Opinion No. 141, Hall, 1975; Attorney General Opinion Letter No. 149, Argenbright, 1967; and Attorney General Opinion No. 465, Norbury, 1966; copies of which are enclosed.

In the situation about which you are concerned, the emergency services board by statute is authorized to hire staff (Section 190.339.1(4)) and employ all necessary personnel and set their compensation (Section 190.339.2). A board member who also is employed by the board would, in effect, be hiring herself, overseeing her own labor, and allowing the claim for payment of her own salary. Such employment by the board of a board member is void as against public policy regardless of the statute.

Subsection 9 of Section 190.339 provides that individual board members shall not be eligible for employment by the board within twelve months of termination of service as a board member. Subsection 10 prohibits the board from employing any person who is related to a board member within the fourth degree by blood or by marriage. Having already concluded that the common law prohibits the board from employing the board member, we need not address whether subsections 9 or 10 are applicable to such situation.

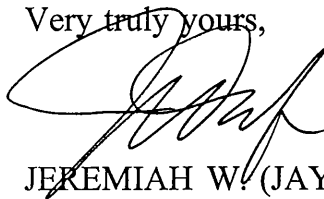
Your second question asks if it matters how many/few hours are worked by the board member as an employee or the manner in which the board member employee is compensated. If the board member is compensated as an employee, regardless of the number of hours worked as an employee or the manner of compensation, such compensation violates the common law as discussed above.

Julia A. Roselle
Page 4

CONCLUSION

It is the opinion of this office that a member of an emergency services board to which Section 190.339, RSMo Supp. 1998, applies may not be employed by that board.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeremiah W. Nixon', written over the typed name.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosures



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

May 28, 1999

OPINION LETTER NO. 115-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

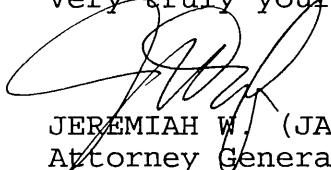
Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo Supp. 1998, for sufficiency as to form of an initiative petition relating to the amendment of Section 565.020, RSMo, to eliminate the death penalty as a possible punishment for first degree murder. A copy of the initiative petition which you submitted to this office on May 19, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,


JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

June 18, 1999

OPINION LETTER NO. 117-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated June 8, 1999, you submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

The net fiscal impact to the state or local governments resulting from this proposed measure are unknown.

See our Opinion Letter No. 115-99.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P. O. Box 899
(573) 751-3321

June 18, 1999

OPINION LETTER NO. 120-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. 1998. The summary statement which you have submitted is as follows:

Shall Missouri law be amended to repeal the death penalty as punishment for murder in the first degree, and to provide that the only punishment for murder in the first degree shall be imprisonment for life without eligibility for probation, parole, or release, except by act of the governor?

See our Opinion Letter No. 115-99.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

July 2, 1999

OPINION LETTER NO. 122-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

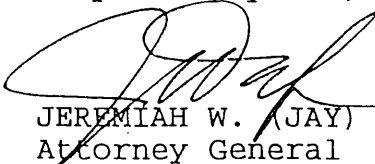
Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo Supp. 1998, for sufficiency as to form of an initiative petition relating to a proposed law amending Chapter 226. A copy of the initiative petition which you submitted to this office on June 23, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

July 9, 1999

OPINION LETTER NO. 123-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

By letter dated June 29, 1999, you submitted to us a summary statement prepared pursuant to Section 116.160, RSMo. The summary statement which you have submitted is as follows:

Shall a budget reserve fund be created in the state treasury to provide an operating reserve for use by the governor with 2/3 approval by the legislature when there is a budget emergency due to disaster or revenues falling below revenue estimates?

Pursuant to Section 116.160, RSMo, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the measure or as the expression of any view regarding the measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

July 9, 1999

OPINION LETTER NO. 124-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated June 30, 1999, you submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

The estimated fiscal impact of this proposed measure on state and local governments is \$0.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the measure or as the expression of any view regarding the measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(314) 751-3321

July 19, 1999

OPINION LETTER NO. 127-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated July 9, 1999, you submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

The estimated fiscal impact of this proposed measure is unknown.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General

ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P. O. Box 899
(314) 751-3321

OPINION LETTER NO. 128-99

July 22, 1999

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

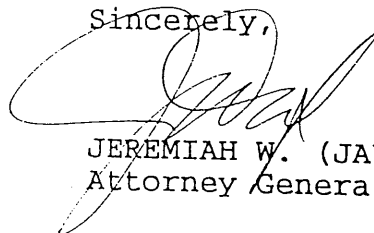
You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. The summary statement which you have submitted is as follows:

Shall Missouri statutes be amended to prohibit the construction of most new outdoor advertising and to further restrict existing outdoor advertising along all National Highway System highways in Missouri; to increase the authority of any city, county or local zoning authority to regulate outdoor advertising; and to prohibit the removal of trees and vegetation located on public rights of way except for purposes of improving aesthetic or environmental value or of eliminating safety hazards?

See our Opinion Letter No. 122-99 (attached), approving the form of the related petition.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,



JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

July 30, 1999

OPINION LETTER NO. 133-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed law concerning campaign financing. A copy of the initiative petition that you submitted to this office on July 23, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 889
(573) 751-3321

August 19, 1999

OPINION LETTER NO. 140-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated August 11, 1999, you have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

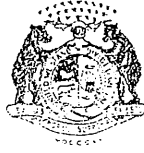
The costs of this proposal will be funded through an increase in the corporate franchise tax rate for corporations whose outstanding shares and surplus exceed \$2,000,000. This tax increase will generate approximately \$13,000,000 per year.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a circular embossed seal.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

August 19, 1999

OPINION LETTER NO. 143-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. The summary statement which you have submitted is as follows:

Shall Missouri statutes be enacted establishing a campaign finance system where candidates for election to the Missouri legislature and statewide office who comply with various requirements regarding campaign contributions and finances, including limitations on campaign spending, contributions and use of personal funds, may apply and obtain certification from the Missouri Ethics Commission to receive public campaign financing, where the funds allocated to participating candidates are provided by increasing by one-hundredth of one percent the annual franchise tax levied on corporations whose outstanding shares and surplus exceed two million dollars, with such campaign finance system to include penalties for violations?

See our Opinion Letter No. 133-99 (attached), approving the form of the related petition.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 3, 1999

OPINION LETTER NO. 149-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed law concerning increases in the minimum wage. A copy of the initiative petition that you submitted to this office on August 27, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 9, 1999

OPINION LETTER NO. 150-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed constitutional amendment to Article IV, §36(a) of the Constitution of the State of Missouri. A copy of the initiative petition which you submitted to this office on August 30, 1999, is attached for reference.

We conclude that the petition must be rejected as to form for the following reasons:

1. HB 676 was signed by the Governor on June 16, 1999. The legislation contains a section specific emergency clause, making portions of the legislation effective upon signing. One such section is §116.040. The petition form is not in compliance with section 116.040, as amended, for several reasons. Initially, it must be noted that the first paragraph of the petition fails to follow the statutory notice language in that it omits the phrase "measure for the same" in the last line of the notice. Additionally, the petition form prohibits the inclusion of P.O. Boxes as the registered voting address despite the fact that the registered voting address of some Missouri voters is a post office box and this prohibition is not found in the statute. Finally, we note that the petition form provides for the notary public seal and commission expiration date to appear before the signature and address of the notary. This is inconsistent with the statutory placement.

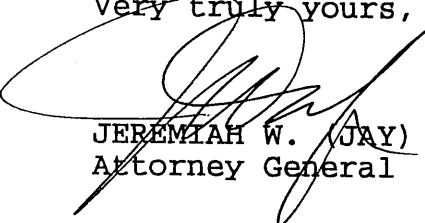
2. The petition form is not in compliance with section 116.050.2(1) and (2), RSMo Supp. 1998, because the petition form fails to contain the full and correct text of the measure in that it does not "[c]ontain all matter which is to be deleted included

The Honorable Rebecca McDowell Cook
Page 2

in its proper place enclosed in brackets and all new matter shown underlined." The currently applicable Article IV, § 36(a) is not bracketed as matter to be deleted by the proposed amendment and it is unclear whether this preexisting section is to be repealed. Additionally, the underlined material does not appear to contain only the language of the proposed constitutional amendment and the "schedule" is not underlined or bracketed and does not appear to properly delete or add to the existing constitutional provision.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'Jay Nixon', is written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 10, 1999

OPINION LETTER NO. 152-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning video gambling devices. A copy of the initiative petition that you submitted to this office is attached for your reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,


JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 16, 1999

OPINION LETTER NO. 153-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

By letter dated September 9, 1999, you have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo. The fiscal note summary which you submitted is as follows:

This proposal will reduce state and local government revenue from other gaming activities; however, the amount of such reduction cannot be reasonably estimated.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

September 16, 1999

OPINION LETTER NO. 154-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. The summary statement which you have submitted is as follows:

Shall the Missouri Constitution permit any nonprofit, federally tax-exempt, religious, charitable, fraternal, veteran or service organization, which has existed for at least ten years and has had at least fifty members during that period, to operate a limited number of video machines, where "video machine" means a coin operated gambling device that, depending upon elements of chance, may eject something of value; and further permit the Missouri Lottery Commission to establish standards and conditions to regulate and supervise operation of video machines?

See our Opinion Letter No. 152-99 (attached), approving the form of the related petition.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay Nixon", is written over the word "Sincerely,".

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

October 14, 1999

OPINION LETTER NO.159-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed constitutional amendment relating to a sales tax to support passenger rail service. A copy of the initiative petition which you submitted to this office on October 4, 1999, is attached for reference.

We conclude that the petition must be rejected as to form. The Constitution of the State of Missouri provides in Article III, §50, that initiative petitions contain an enacting clause that reads: "Be it resolved by the people of the state of Missouri that the Constitution be amended:". The enacting clause contained on the reverse side of the petition form does not contain the required language and, hence, the form of the petition must be rejected. Additionally, immediately following the enacting clause the form petition includes the sentence, "A measure is passed to add a section 30(d)." This section is, at best, surplusage in light of other language contained on the reverse side of the form and, at worst, confusing and inappropriate in that it either indicates that signing the petition is equivalent to passage of the petition or commits petition signers to vote in favor of the petition.

Because of our rejection of the form of the petition as stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon".

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

October 15, 1999

OPINION LETTER NO. 162-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning collective bargaining for firefighters and related personnel. A copy of the initiative petition that you submitted to this office on October 7, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY

65102

October 15, 1999

P.O. Box 899
(573) 751-3321

OPINION LETTER NO. 163-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning the enactment of a sales tax to support technology parks. A copy of the initiative petition that you submitted to this office on October 8, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

October 28, 1999

OPINION LETTER NO. 165-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning a sales tax for rail passenger service. A copy of the initiative petition that you submitted to this office on October 18, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

November 8, 1999

OPINION LETTER NO. 173-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning a sales tax for rail passenger service. A copy of the initiative petition that you submitted to this office on October 29, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jay Nixon", is written over the typed name and title of the Attorney General.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 8, 1999

OPINION LETTER NO. 174-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

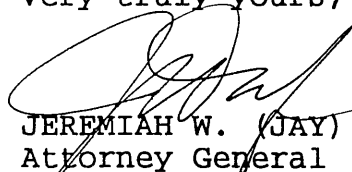
Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning the enactment of a sales tax to support technology parks. A copy of the initiative petition that you submitted to this office on October 29, 1999, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,


JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

November 5, 1999

OPINION LETTER NO. 176-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

You have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning a proposed constitutional amendment to allow collective bargaining by firefighters and related personnel. The fiscal note summary that you submitted is as follows:

The annual cost to paid fire departments and districts, ambulance departments and districts, and dispatch agencies to enter into collective bargaining contracts are approximately \$243,000 to \$3,037,500, depending upon the number of entities entering into such contracts.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 9, 1999

OPINION LETTER NO. 178-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

You have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning a proposed constitutional amendment to allow collective bargaining by firefighters and related personnel. The fiscal note summary that you submitted is as follows:

The annual costs to paid fire departments and districts, ambulance departments and districts, and dispatch agencies to enter into collective bargaining contracts are approximately \$243,000 to \$3,037,500, depending upon the number of entities entering into such contracts.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

November 19, 1999

OPINION LETTER NO. 181-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

You have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning a proposed constitutional amendment to impose a sales tax to support technology parks. The fiscal note summary that you submitted is as follows:

The costs of this proposal will be funded through an additional one tenth of one percent sales tax for one year. This will generate approximately \$75,000,000 in sales tax revenues.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay Nixon", written over a circular embossed seal.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 23, 1999

OPINION LETTER NO. 182-99

The Honorable Claire C. McCaskill
Missouri State Auditor
State Capitol Building
Jefferson City, MO 65101

Dear Auditor McCaskill:

You have submitted to us a fiscal note and fiscal note summary prepared pursuant to Section 116.175, RSMo, concerning a proposed constitutional amendment to impose a sales tax to support rail passenger service. The fiscal note summary that you submitted is as follows:

The costs of this proposal to the state government will be funded through the imposition of one tenth of one percent sales tax on motor fuel. This will generate approximately \$3,800,000 per year in state sales tax revenue.

Pursuant to Section 116.175, we approve the legal content and form of the fiscal note summary. Since our review of the fiscal note summary is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 24, 1999

OPINION LETTER NO. 183-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed constitutional amendment concerning concealed weapons. A copy of the initiative petition that you submitted to this office on November 16, 1999, is attached for reference.

We conclude that the petition must be rejected as to form for the following reasons:

The petition form prohibits the use of P.O. Boxes as the registered voting address for petition signers. This prohibition is not found in the statute. See § 116.040, RSMo. The registered voting address of some Missouri voters is a post office box. The statute does not authorize the circulation of a petition that some registered voters in Missouri could not sign.

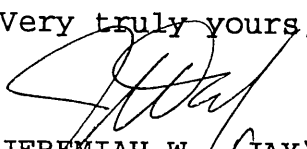
Additionally, the Constitution of the state of Missouri provides in Article III, § 50, that initiative petitions contain an enacting clause that reads: "Be it resolved by the people of the state of Missouri that the Constitution be amended:". The form petition submitted does not contain this constitutionally required language.

Finally, we note that the petition form provides for the notary public seal and commission expiration date to appear before the signature and address of the notary. This is inconsistent with the statutory placement.

The Honorable Rebecca McDowell Cook
Page 2

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 24, 1999

OPINION LETTER NO. 184-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed law concerning concealed weapons. A copy of the initiative petition that you submitted to this office on November 16, 1999, is attached for reference.

We conclude that the petition must be rejected as to form because the petition form prohibits the use of P.O. Boxes as the registered voting address for petition signers. This prohibition is not found in the statute. See § 116.040, RSMo. The registered voting address of some Missouri voters is a post office box. The statute does not authorize the circulation of a petition that some registered voters in Missouri could not sign. Additionally, we note that the petition form provides for the notary public seal and commission expiration date to appear before the signature and address of the notary. This is inconsistent with the statutory placement.

Because of our rejection of the form of the petition for the reason stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. Nixon", written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 24, 1999

OPINION LETTER NO. 185-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed law concerning concealed weapons. A copy of the initiative petition that you submitted to this office on November 16, 1999, is attached for reference.

We conclude that the petition must be rejected as to form because the petition form prohibits the use of P.O. Boxes as the registered voting address for petition signers. This prohibition is not found in the statute. See § 116.040, RSMo. The registered voting address of some Missouri voters is a post office box. The statute does not authorize the circulation of a petition that some registered voters in Missouri could not sign. Additionally, we note that the petition form provides for the notary public seal and commission expiration date to appear before the signature and address of the notary. This is inconsistent with the statutory placement.

Because of our rejection of the form of the petition for the reason stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 24, 1999

OPINION LETTER NO. 189-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. The summary statement which you have submitted is as follows:

Shall Article IV, section 30 of the Missouri Constitution be amended to provide that monies collected from a one-tenth of one percent sales tax will be used for the purpose of developing Rail Passenger Service in Missouri and further to provide that a one-tenth of one percent sales tax upon or measured by fuel used for propelling motor vehicles (automobile, trailers, motorcycles, mopeds) is to be levied and collected as provided by law?

See our Opinion Letter No. 173-99 (attached), approving the form of the related petition.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 24, 1999

OPINION LETTER NO. 192-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

You have submitted to us a summary statement prepared pursuant to Section 116.334, RSMo Supp. The summary statement which you have submitted is as follows:

Shall the Missouri Constitution be amended to impose for a period of one year a state sales/use tax of one-tenth of one percent subject to the provisions of and to be collected as provided in the "Sales Tax Law" and the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith to provide additional money for the State Economic Development Department to be used solely for the promotion and development of one or more "Technology Parks" in the state within a five year time frame?

See our Opinion Letter No. 174-99 (attached), approving the form of the related petition.

Pursuant to Section 116.334, we approve the legal content and form of the proposed statement. Since our review of the statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

December 9, 1999

OPINION LETTER NO. 196-99

The Honorable Rebecca McDowell Cook
Missouri Secretary of State
State Capitol Building
Jefferson City, MO 65101

Dear Secretary Cook:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, for sufficiency as to form of an initiative petition relating to a proposed law concerning the awareness of unidentified flying objects. A copy of the initiative petition that you submitted to this office on November 29, 1999, is attached for reference.

We conclude that the petition must be rejected as to form. The petition form prohibits the use of P.O. Boxes as the registered voting address for petition signers. This prohibition is not found in the statute. See § 116.040, RSMo. The registered voting address of some Missouri voters is a post office box. The statute does not authorize the circulation of a petition that some registered voters in Missouri could not sign. Further, the reverse side of the petition appears to contain improper ballot and fiscal note summaries. The law requires that these summaries be prepared by the Secretary of State and the State Auditor respectively.

Additionally, we note that the petition form contains many statutory variances. Specifically, it directs the affiant to include the address where he is registered to vote, omits the "village" option from the registered voting address line and excludes the "typed" option from the last column of the form.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jeremiah W. Nixon", written over a horizontal line.

JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure